



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Southern Nevada District Office

Las Vegas Field Office

4701 N. Torrey Pines Drive

Las Vegas, Nevada 89130

<http://www.blm.gov/nv/st/en.html>

MAY 18 2011

In Reply Refer to:
LLNVS0-0530-11-021
2930 (NVS0053)

CERTIFIED MAIL 7009 2820 0001 6804 3079 – RETURN RECEIPT REQUESTED

DECISION

Mr. Don Wall, President	:	
Southern Nevada Off-Road Enthusiasts	:	43 CFR 2930
P.O. Box 752172	:	LLNVS0-0530-11-021
Las Vegas, Nevada 89136	:	

2011 Midnight Special Special Recreation Permit Denied

On December 30, 2010, the Bureau of Land Management (BLM) received your application for the Southern Nevada Off-Road Enthusiasts (SNORE) Midnight Special off-highway vehicle (OHV) race. The race is scheduled for July 28 to 31, 2011, and uses routes that go from Primm, Nevada, into the Jean and Roach Dry Lake Special Recreation Management Area and return to Primm. This OHV race was most recently permitted by the Las Vegas Field Office (LVFO) in 2008. The race is proposed to be held on lands managed by the BLM LVFO and private property owned by the Primm Casino/Resort properties. A BLM special recreation permit (SRP), written permission from the private property owners, and permission from the Union Pacific Railroad for the race to cross the railroad tracks are required in order for this OHV race to occur.

On January 26, 2011, the Las Vegas Field Office sent SNORE a letter acknowledging receipt of the application for the 2011 Midnight Special and requested additional information, including written letters of permission from the private property owners in Primm, Nevada and from the Union Pacific Railroad. This information was to be submitted to this office at least 90 days in advance of the event. The event dates are less than 90 days from now and the requested letters have not been provided.

SNORE's Past Non-Compliance

In 2008, the last time SNORE conducted the Midnight Special in the LVFO, SNORE did not have race personnel in place and ready for the start of the event at critical areas such as road crossings. BLM Law Enforcement Rangers had to delay the start of the race due to the safety hazards created for both the racers and general public when road crossings are not manned. In response, an angry group of racers and spectators almost started an incident that would have endangered the safety of the BLM personnel monitoring the event. SNORE officials, racers and spectators harassed BLM personnel, especially the Law Enforcement Rangers, for not allowing the race to start without the proper personnel in place; however, it was SNORE's lack of management of the event that was at issue, not the BLM's actions.

The most recent OHV race conducted by SNORE on lands managed by the BLM LVFO was the 2011 Mint 400. Following the race, BLM sent SNORE a post-event evaluation dated May 18, 2011 (see enclosed). The BLM rated SNORE's performance during the 2011 Mint 400 as unacceptable for many reasons, including permit stipulation violations that created safety hazards and resulted in the unauthorized disturbance of approximately 13 acres of public lands. SNORE demonstrated the same lack of management at the 2011 Mint 400 as was demonstrated at the 2008 Midnight Special. SNORE did not have key personnel in place to manage the road crossings or access to the pits. This resulted in unauthorized personnel accessing the pits, and in at least one instance witnessed by the BLM, resulted in spectators driving on the course. Again, it was SNORE's lack of event management that led to the stipulation violations and created the potential for a serious accident to occur.

It is SNORE's responsibility to its members, racers, race crews, spectators, and the general public that everything is done in accordance with the highest possible standards of safety. The 2011 Mint 400 brought to the forefront SNORE's inability to ensure that all necessary safety measures to conduct a high-speed OHV event are in place. The proposed 2011 Midnight Special is approximately 50 miles in length and is to be raced at night. Racing at night creates additional concerns for the BLM as to whether the race can be run safely.

Decision

The regulations at 43CFR 2932.26 clearly state that the BLM has discretion over whether or not to issue an SRP and that our decision will be based on seven listed factors, including public safety (2932.26(b)), resource protection (2936.26(d)) and whether the permittee has complied with the stipulations of past permits (2936.26(f)). SNORE demonstrated during the 2011 Mint 400 that they cannot properly manage a high-speed OHV race safely and without causing additional disturbance to the public lands. SNORE's lack of management of the 2011 Mint 400 violated several stipulations which were clearly described in the post-event evaluation. This led to SNORE receiving a rating of unacceptable for the 2011 Mint 400.

The BLM is concerned that the added difficulty of racing at night will lead to even more safety violations and resource damage. For these reasons, and in accordance with the regulations at 43 CFR 2932.26, the SRP for the 2011 Midnight Special is hereby denied.

Appeal Rights

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- 1) The relative harm to the parties if the stay is granted or denied,
- 2) The likelihood of the appellant's success on the merits,
- 3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- 4) Whether the public interest favors granting the stay.



Shonna Dooman
Assistant Field Manager
Non-Renewable Resources

Enclosures (2):

Copy of the 2011 Mint 400 Post Event Evaluation
Form 1842-1

cc: Don Wall, President
Southern Nevada Off-Road Enthusiasts
P.O. Box 752172
Las Vegas, Nevada 89136

ecc: Don Wall, SNORE (w/enclosures)
Clay Flippin, SNORE (w/enclosures)
Ken Flippin Jr., SNORE (w/enclosures)
Robert Gross, SNORE (w/enclosures)
Leo Drumm, Recreation, Travel and Access Coordinator, NV93300 (w/o enclosures)
Michael Burroughs, U.S. Fish and Wildlife Service (w/o enclosures.)